

# DRUG USERS AND THE STRUCTURE OF THE CRIMINAL JUSTICE SYSTEM

*The number of injection and other drug users in the criminal justice system has skyrocketed in recent years. The corrections setting presents opportunities for many inmates to obtain education, testing, and treatment services.*

## Drug Users are Often in Prison or Jail

With several notable exceptions (tobacco and alcohol use by adults), the use of addictive drugs is illegal. Users can be arrested and imprisoned. Many states have laws that are intended to prevent people from using drugs:

- 47 states, the District of Columbia, and the Virgin Islands have drug paraphernalia laws. These laws establish criminal penalties for the manufacture, sale, distribution, possession, or advertisement of any item used to produce and consume illegal drugs.
- 8 states and 1 territory have syringe prescription laws. These laws prohibit dispensing or possessing syringes without a valid medical prescription.

Drug users also get into trouble with the law when they commit other types of crimes to get drugs or money to buy drugs or if they are under the influence when they commit a crime. In 1997:

- 33 percent of state and 22 percent of federal prisoners were under the influence of drugs when they committed the crime for which they were incarcerated; 16 percent committed the crime to get money for drugs;
- 57 percent of state inmates and 45 percent of federal inmates used drugs in the month before their arrest;
- among jail inmates who had pleaded guilty or had been convicted, 36 percent were under the influence when they committed

their crime and 16 percent committed the crime to get money for drugs; 70 percent of jail inmates had used drugs regularly in the past or had violated a drug law.

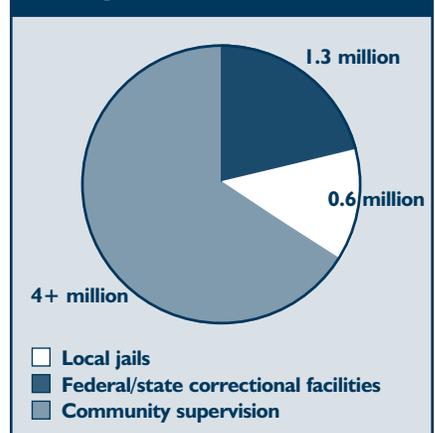
## Drug Users Serve Their Time in Various Correctional Settings

Drug users who have been arrested, tried, and convicted serve their sentences in various settings. The judge or jury chooses a setting based on the nature of the crime and the length of the sentence imposed. They also consider other factors, such as the age and gender of the individual and any prior convictions:

- **Jails** are administered by a county or city. Individuals convicted of misdemeanors, such as possessing small amounts of drugs, serve their time in jails. Jails also house people awaiting hearings, trial, or transfer to prison. Sentences are usually less than 1 year.
- **State prisons** house people convicted of felonies under state law, such as selling illegal drugs or committing a violent crime to support an addiction. State prison sentences are 1 year or longer. Most drug users serve their time in jail or state prison.
- **Federal prisons** house people convicted of violating federal laws, such as interstate drug trafficking. These prison sentences are at least 1 year.

The criminal justice system also uses other approaches. Some are alternatives to prison or jail; others are used in conjunction. The main ones:

**How Many are Under Correctional Control?**



- **Probation** allows the convicted person to remain at liberty but subject to conditions and restrictions, such as frequent drug testing or substance abuse treatment.
- **Parole** is the conditional release of a prisoner before his or her full sentence has been served; individuals on parole must abide by certain conditions imposed by the parole board or be returned to incarceration.
- **Drug court** is an approach in which a defendant accused of a nonviolent crime is offered the opportunity to plead guilty to the charges with the promise that if he or she complies with court-mandated substance abuse treatment, the court will dismiss the charges. Frequent drug testing is a prominent feature of the drug court approach.

## Drug Users Have Opportunities for Testing, Treatment, and Education in the Criminal Justice System

Inmates in the criminal justice system have multiple opportunities to obtain substance abuse treatment and education, testing, and counseling:

**Booking and initial bond hearing.** Several events occur during these two stages – charges are recorded; the arrested person is photographed, fingerprinted, and advised about legal representation; defense and prosecution present preliminary arguments about the charges to judges and the court; and bail is set. The person may or may not be released, depending on the nature and seriousness of the crime and whether he or she can post bail. These stages are the first opportunity for public health intervention, though many challenges exist. For one thing, depending on the situation, individuals spend anywhere from just a few hours to a few days or weeks in the facility (1/2 of those booked are released within 24-48 hours). If they are there for only a short time, there may be little opportunity for public health intervention.

If a person is in the jail for a longer time during this early period, he or she may get a simple medical evaluation. This evaluation varies tremendously from location to location. Some jurisdictions ask a few questions about the prisoner's overall health. Others conduct a more extensive exam, including a tuberculosis (TB) skin test, chest x-ray, or sexually transmitted disease (STD) test. The extent of this initial evaluation depends on available funds and staff. If HIV or STDs are a major problem in the community, the station may routinely test for these infections. Some local police facilities also provide health

education videos or print materials in waiting areas and other places.

**Post-conviction detention.** Some people remain in the local jail because they are sentenced to a term there or because they are waiting to be transferred to a prison. In this case, they may receive a full physical examination within 14 days of entering the facility. This exam is an opportunity to assess the person's overall health status, risk profile, and need for interventions such as HIV care, substance abuse treatment, or health care services. As in the booking stage, however, the extent of these exams varies widely.

**Incarceration.** When a person arrives at a prison reception center, he or she has a full physical examination and may be tested for a variety of diseases, such as HIV, STDs, and TB. About half the state and federal prisons also routinely test new female inmates for pregnancy.

The relatively stable routine and longer stay for inmates in prison make it easier to develop and carry out HIV and substance abuse treatment and education programs. These programs can help inmates recover from addiction and reduce their risks of becoming infected with HIV, hepatitis, or STDs, or of transmitting an infection to someone else.

## Relatively Few Inmates Receive the Interventions They Need

Prisons, jails, and community-based corrections are increasingly aware of the importance of providing testing, treatment, prevention, and education services. However, significant gaps still remain:

- The National Center on Addiction and Substance Abuse at Columbia University (CASA) reports that about 800,000 people in the criminal justice system need substance abuse treatment, but fewer than 150,000 receive it. Surveys conducted by the U.S. Department of Justice's Bureau of Justice Statistics in 1997 and 1998 show that only about 12 percent of state and 10 percent of federal prisoners had participated in substance abuse treatment since their incarceration. About a quarter participated in some other type of program, such as a self-help or drug/alcohol awareness and education program. Only about a fifth of city/county jail inmates had participated

in substance abuse treatment programs since their admission.

- Sixty percent of state and federal systems and more than 40 percent of city/county systems now offer HIV and STD prevention programs. They include instructor- and peer-led programs, pre- and post-test counseling, multi-session prevention counseling, and written and audiovisual materials. However, not all facilities within these systems provide these programs. In addition, relatively few go beyond basic education into more intensive and comprehensive efforts designed to help inmates make and sustain behavior change.

## To Learn More About This Topic

Read the **overview fact sheet** in this series on drug users and the criminal justice system – Drug Users, HIV, and the Criminal Justice System. It provides basic background information, links to the other fact sheets in this series, and links to other useful information (both print and internet).

Visit the **Bureau of Justice Statistics website** ([www.ojp.usdoj.gov/bjs/flowchart.htm](http://www.ojp.usdoj.gov/bjs/flowchart.htm)) for a flowchart and accompanying text on the players in the criminal justice system and the sequence of events, from arrest through sanctions.

Check out these **sources of information**: Gostin LO. The legal environment impeding access to sterile syringes and needles: the conflict between law enforcement and public health. *Journal of Acquired Immune Deficiency Syndromes and Human Retrovirology* 1998;18(Suppl 1):S60-S70.

Hammett TM, Harmon P, Maruschak LM. 1996-1997 update: HIV/AIDS, STDs, and TB in correctional facilities. *Issues and Practices in Criminal Justice*. Washington (DC): U.S. Department of Justice, National Institute of Justice; July, 1999. NCJ 176344. [www.ncjrs.org/pdffiles1/176344.pdf](http://www.ncjrs.org/pdffiles1/176344.pdf)

## Jail-based STD Screening Makes a Big Contribution

The Baltimore Central Booking and Intake Center's jail-based screening project, Statlab, was established at the height of the city's 1997-1998 syphilis epidemic. In 1999, Statlab identified about 26% of Baltimore's and 16% of Maryland's primary and secondary syphilis cases. The project provides critically important information about local and statewide STD trends.



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